

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

Carlos Armando Sapon Sapon and, Fredy Tomas  
Baquiaux Ajche individually and on behalf of others  
similarly situated,

Plaintiffs,

-against-

Hanbat Restaurant, Inc. (d/b/a Han Bat) and Nack  
Gyeun Mun,

Defendants.

18-cv-11457-PGG

SETTLEMENT AGREEMENT  
AND  
RELEASE

This Settlement Agreement and Release of Claims ("Agreement") is entered into by and among Plaintiffs Carlos Armando Sapon Sapon and Fredy Tomas Baquiaux Ajche ("Plaintiffs") on the one hand, Hanbat Restaurant, Inc. (d/b/a Han Bat), ("Defendant Corporation"), Nack Gyeun Mun, ("Individual Defendant"), (collectively, "Defendants"), on the other hand.

WHEREAS, Plaintiffs allege that they worked for Defendants as employees; and

WHEREAS, a dispute has arisen regarding Plaintiffs' alleged employment and the terms thereof, which dispute has resulted in the filing of an action in the United States District Court for the Southern District of New York, Civil Action No: 18-cv-11457-PGG (hereinafter "the Litigation"), alleging, among other things, a violation of federal and state wage and hour and overtime laws;

WHEREAS, Defendants deny any violation of federal and state wage and hour and overtime laws; and

WHEREAS, the parties desire to resolve all disputes between them without the necessity of further litigation;

NOW, THEREFORE, in consideration of the mutual covenants and promises herein contained and other good and valuable consideration, receipt of which is hereby acknowledged, it is hereby agreed as follows:

1. **Settlement Amount.** (a) Defendants shall pay the total amount of \$35,000 as full and complete compensation in settlement of all claims ("Settlement Amount"), payable as follows: (i) Three installments, each in the amount of eleven thousand six hundred sixty six and

sixty seven/100 dollars (\$11,666.67), payable on or before October 1, 2019; November 1, 2019; and December 1, 2019.

(b) The payment set forth above in these Paragraphs shall be delivered to the office of Michael Faillace & Associates, P.C. to the attention of Michael Faillace, Esq., ("**Plaintiffs' Counsel**") at One Grand Central Place, 60 East 42nd Street, Suite 4510, New York, NY 10165.

(c) The Parties understand and represent that counsel for Plaintiffs shall be responsible for distributing the settlement amounts and that such distribution shall be \$7,777.78 to Carlos Armando Sapon Sapon; \$15,555.55 to Fredy Tomas Baquix Ajche; and \$11,666.67 to Michael Faillace, Esq., for attorneys' fees and costs. Counsel will distribute to plaintiffs and reimbursement of fees and costs proportional payments from each of the three installments.

2. Release and Covenant Not To Sue: Plaintiffs hereby irrevocably and unconditionally release from and forever discharges and covenant not to sue Defendants, and for each of them, their heirs, successors, assigns, affiliates, parent organizations, subsidiaries, directors, owners, shareholders, members, agents, attorneys, legal representatives and managers any and all charges, complaints, claims, causes of action, suits, debts, liens, contracts, rights, demands, controversies, losses, costs and or expenses, including legal fees and any other liabilities of any kind or nature whatsoever, known or unknown, suspected or unsuspected, whether fixed or contingent (hereinafter referred to as "claim" or "claims") which each Plaintiff at any time has, had, claims or claimed to have against Defendants relating specifically to the claims in the Litigation that have occurred as of the Effective Date of this Agreement. Similarly, Defendants release and discharge Plaintiffs from any and all known claims, and liabilities of any kind that they have, had or claimed to have against Plaintiffs relating specifically to the claims in the Litigation that have occurred as of the Effective Date of this Agreement.

3. No Admission of Wrongdoing: This Agreement and compliance with this Agreement shall not be construed as an admission by Defendants of any liability whatsoever, or of any violation of any statute, regulation, duty, contract, right or order.

4. Modification of the Agreement: This Agreement may not be changed unless the changes are in writing and signed by a proper representative of Plaintiffs and Defendants.

5. Acknowledgments: Plaintiffs and Defendants acknowledge that they are not relying upon any statement, representation or promise in executing this Agreement except for statements, representations or promises expressly set forth in this Agreement. They further acknowledge and agree that the only consideration for signing this Agreement is as set forth in this Agreement.

6. Notices: Notices required under this Agreement shall be in writing and shall be deemed given on the first business day following first-class mailing and electronic transmission thereof. Notice hereunder shall be delivered to:

To Plaintiffs:

Michael Faillace, Esq.  
**MICHAEL FAILLACE & ASSOCIATES, P.C.**  
60 East 42<sup>nd</sup> St. Suite 4510  
New York, NY 10165  
Tel: (212) 317-1200  
Fax: (212) 317-1620  
Email: michael@faillacelaw.com

To Defendants:

Do Kyung Kim  
14-25 Northern Blvd., Suite A30  
Flushing, NY 11354  
Tel: (718) 460-9494  
Email: dkkimlaw@gmail.com

7. Governing Law: This Agreement shall be governed by, and interpreted in accordance with, the laws of the State of New York, excluding the conflict-of-laws principles thereof. The parties consent and stipulate to the personal jurisdiction of the United States District Court for the Southern District of New York and the Supreme Court of the State of New York in any subsequent proceeding to enforce this Agreement.

8. Enforceability: If any provision of this Agreement is held to be illegal, void, or unenforceable, such provision shall be of no force or effect. However, the illegality or unenforceability of such provision shall have no effect upon, and shall not impair the legality or enforceability of, any other provision of this Agreement, provided, however, that upon any finding by a court of competent jurisdiction that a release or waiver of claims or rights or a covenant set forth herein is illegal, void or unenforceable, Plaintiffs agree to promptly execute a release, waiver and/or covenant that is legal and enforceable.

9. Release Notification: Defendants advised Plaintiffs to discuss the terms of this Agreement and release of claims with their legal counsel and Plaintiffs acknowledge that they have consulted with Michael Faillace, Esq. of Michael Faillace & Associates, P.C., Plaintiffs acknowledge that it is their choice to waive any potential claims in return for the benefits set forth herein and that each of them made this decision after careful thought and a reasonable period of time to consider this Agreement, and after an opportunity to consult with their attorneys. Plaintiffs confirm that this Settlement Agreement and Release has been translated to them in Spanish and that they understand the terms of this Agreement and that they are signing this Agreement voluntarily.

10. Counterparts: To signify their agreement to the terms of this Agreement and Release, the parties have executed this Agreement on the date set forth opposite their signatures, which appear below. This Agreement may be executed in two or more counterparts and each of such counterparts, for all purposes, shall be deemed to be an original but all of such counterparts together shall constitute but one and the same instrument, binding upon all parties hereto,

notwithstanding that all of such parties may not have executed the same counterpart. This agreement may also be executed by facsimile transmission.

PLAINTIFFS:

By: CARLOS ARMANDO SAPON SAPON

Date: \_\_\_\_\_

By: FREDY TOMAS BAQUIAX AJCHE

Date: \_\_\_\_\_

DEFENDANTS:

By: NACK GYEUN MUN  
HANBAT RESTAURANT, INC.

Date: \_\_\_\_\_

By: NACK GYEUN MUN  
NACK GYEUN MUN

Date: \_\_\_\_\_

notwithstanding that all of such parties may not have executed the same counterpart. This agreement may also be executed by facsimile transmission.

PLAINTIFFS:

By: \_\_\_\_\_

CARLOS ARMANDO SAPON SAPON

Date: \_\_\_\_\_

9/11/19

By: \_\_\_\_\_

FREDY TOMAS BAQUIAX AJCHE

Date: \_\_\_\_\_

9/11/19

DEFENDANTS:

By: \_\_\_\_\_

HANBAT RESTAURANT, INC.

Date: \_\_\_\_\_

By: \_\_\_\_\_

NACK GYEUN MUN

Date: \_\_\_\_\_